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| 10/565,690  | 01/24/2006  | Claude Baudrenghien  | 1717214                     | 2525             |
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| CHAPMAN AND CUTLER<br>111 WEST MONROE STREET<br>CHICAGO, IL 60603 |             |                      | EXAMINER<br>O HERN, BRENT T |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                               |                                     |  |
|------------------------------|-------------------------------|-------------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/565,690 | Applicant(s)<br>BAUDRENGHIEN ET AL. |  |
|                              | Examiner<br>Brent T. O'Hern   | Art Unit<br>1794                    |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-11,13,15,16,18,19 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-11,13,15,16,18,19 and 21-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claims*

1. Claims 1-2, 4-11, 13, 15-16, 18-19 and 21-23 are pending with claims 21-23 new.

### WITHDRAWN REJECTIONS

2. The 35 U.S.C. 102(b) rejections of claims 1-6, 9 and 11-15 as being anticipated by Sanders (US 4,709,399) of record in the Office Action mailed 28 August 2007, page 3, paragraph 7 have been withdrawn due to Applicant's amendments in the Paper filed 27 November 2007.
3. The 35 U.S.C. 103(a) rejections of claims 7 and 16-18 as being unpatentable over Sanders (US 4,709,399) in view of Kane, JR. et al. (US 2004/0173492) of record in the Office Action mailed 28 August 2007, page 7, paragraph 8 have been withdrawn due to Applicant's amendments in the Paper filed 27 November 2007.
4. The 35 U.S.C. 103(a) rejections of claims 8 and 19-20 as being unpatentable over Sanders (US 4,709,399) in view of Cooley et al. (US 5,660,925) of record in the Office Action mailed 28 August 2007, page 8, paragraph 9 have been withdrawn due to Applicant's amendments in the Paper filed 27 November 2007.
5. The 35 U.S.C. 103(a) rejections of claim 10 as being unpatentable over Sanders (US 4,709,399) of record in the Office Action mailed 28 August 2007, page 9, paragraph 10 have been withdrawn due to Applicant's amendments in the Paper filed 27 November 2007.

## NEW REJECTIONS

### ***Claim Rejections - 35 USC § 112***

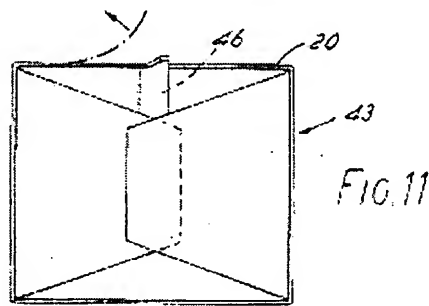
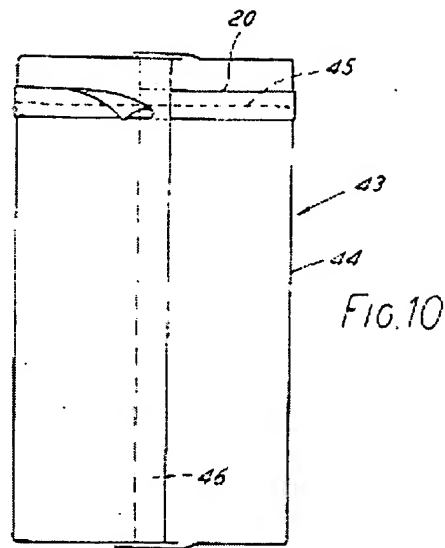
6. Claims 1-2, 4-11, 13, 15-16, 18-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
7. Claim 1 recites the limitation "its first lip" in line 29. There is **insufficient antecedent basis** for this limitation in the claim.
8. The term "permanently sealed" in claim 1, lines 27-28 is a relative term which renders the claim indefinite. The term "permanently sealed" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The slot may be permanently sealed to one person having ordinary skill in the art at the time Applicant's invention was made while not being permanently sealed to another person having ordinary skill in the art. Furthermore, it is unclear how the slot could not be opened, thus, not permanently sealed.

Clarification and/or correction required.

### ***Claim Rejections - 35 USC § 103***

9. Claims 1-2, 4-6, 9-11, 13, 15 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders (US 4,709,399):

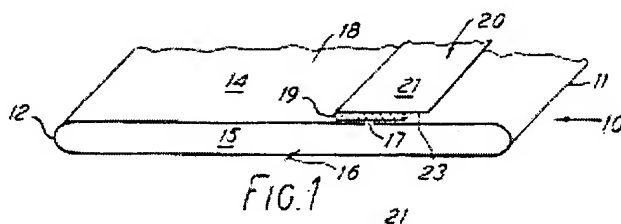
Regarding claims 1-2, Sanders ('399) teaches a sealable package comprising a flexible, air impervious envelope, having outer wall (See FIGs 10-11 and col. 7, ll. 4-22.),



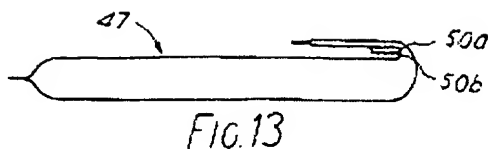
however, Sanders ('399) fails to expressly disclose within the above embodiment wherein portions of the outer wall form a slot through the outer wall and also form first and second lips on the outer wall adjacent the slot, the slot having a length along the slot, and an adhesive strip positioned separately to close the slot in the outer wall along the entire length of the slot with a double seal formed along the outer wall of the envelope, wherein the adhesive strip comprises two parallel adhesive faces and has opposite first and second ends thereon, and wherein a first of the parallel adhesive faces is completely covered with a first detachable protective strip prior to closing the slot, a second of the parallel adhesive faces comprises a first zone and adjacent the first end of the strip that is fixed to the outer wall of the envelope along and beyond the

entire length of the first lip of the slot and a second zone that extends adjacent and beyond the slot and the second lip of the slot and along the entire length of the slot, and the second zone of the second face of the adhesive strip is covered with a second detachable protective strip prior to closing the slot.

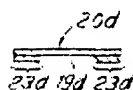
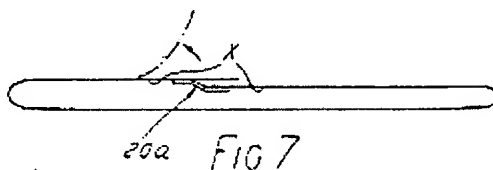
However, Sanders ('399) teaches in other embodiments wherein portions of the outer wall form a slot through the outer wall and also form first and second lips on the outer wall adjacent the slot, the slot having a length along the slot (See FIG-1, portions of wall forming slot with lips having a length on each side of #17.) and



an adhesive strip positioned separately to close the slot in the outer wall along the entire length of the slot with a double seal formed along the outer wall of the envelope, (See FIG-1, tape #20 with adhesive #19 and FIGs 10-11 and col. 7, ll. 4-42 wherein the outer wall of the envelope has three seals, the first being the tape, #20, the second seal being #46 and the third seal being the end portions that are folded and sealed to another per FIG-11. Furthermore, see also FIG-13 wherein #50a is folded over #50b providing a double seal.), wherein the adhesive strip comprises two parallel adhesive faces and has opposite first and second ends thereon (See FIG-1, top and bottom of #19 with first/second ends.), and wherein



a first of the parallel adhesive faces is completely covered with a first detachable protective strip prior to closing the slot (See FIG-1, strip #21 that is capable of being detached.), a second of the parallel adhesive faces comprises a first zone and adjacent the first end of the strip that is fixed to the outer wall of the envelope along and beyond the entire length of the first lip of the slot (See FIG-1, bottom side of #19 fixed to #14.) and a second zone that extends adjacent and beyond the slot and the second lip of the slot and along the entire length of the slot (See FIG-1, wherein #19 bridges #17.), and the second zone of the second face of the adhesive strip is covered with a second detachable protective strip prior to closing the slot (See FIG-10 wherein tape #20; a second strip, overlaps itself and FIG-7 wherein tape #20a is covered with a second strip. Furthermore, see FIG-23 and col. 9, ll. 28-32, multiple tabs #23d. Furthermore, see FIG-11 wherein #20 overlaps itself as it is wrapped around the packaged product.).



Therefore, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was made to combine the teachings from the various

embodiments as discussed above in order to provide a package that encloses the contents to be contained.

The phrase "single use" in claims 1 and 21, line 1 of both claims are deemed to be statements with regard to the **intended use** and are not further limiting in so far as the structure is concerned (*see MPEP 2111.02*).

The phrases "adapted, when sealed after insertion of the contents, to resist leakage of said contents when subjected to a raised internal pressure compared to external, ambient pressure over a range of temperatures so as to meet pertinent international and federal standards for shipping hazardous contents therein by commercial transport" in claims 1 and 21, lines 1-5 of both claims and "whereby after the package is filled with said contents and closed and sealed for shipment, the slot is adapted to be permanently sealed along its entire length by, on its first lip, a double seal comprising first, the first zone of the second face of the adhesive strip adhering to the outer wall, and second, the first face of the adhesive strip adhering to a portion of the outer wall of the container in an area spaced from the slot; and on its second lip, an elongated seal comprising the second zone of the second face of the adhesive strip extending from the slot and the second lip to and beyond the first edge of the adhesive strip and there adhering to a different portion of said outer wall of the container" in claim 1, lines 23-37, "an adhesive strip positioned selectively to close the slot in said outer wall along the entire length of and beyond said slot" in claim 21, lines 10-11, "a second zone adjacent said second lateral edge of the strip that is adapted to extend adjacent and beyond the slot and over said second lip of the slot" in claim 21, lines 20-21, and "after the package is filled with said contents and closed and sealed for shipment, the



slot is adapted to be doubly sealed by a first seal bridging the slot between the two lips, formed by (i) the substrate of the adhesive strip, (ii) the juncture Of the first zone and the second zone of the second face of the adhesive strip adhering to the outer wall of the package, and (iii) the first face of the adhesive strip overlapping and adhering to itself opposite the first zone of the second face of the adhesive strip, and by a second seal formed by said elongated zone extending beyond the first edge of the adhesive strip and there adhering on both its opposite faces to different portions of the folded-over outer wall" in claim 21, lines 25-34 do not limit the claim scope since said language **do not limit the claim to a particular structure** (See *MPEP 2111.04*) and/or are deemed to be statements with regard to the **intended use** and are not further limiting in so far as the structure is concerned (see *MPEP 2111.02*).

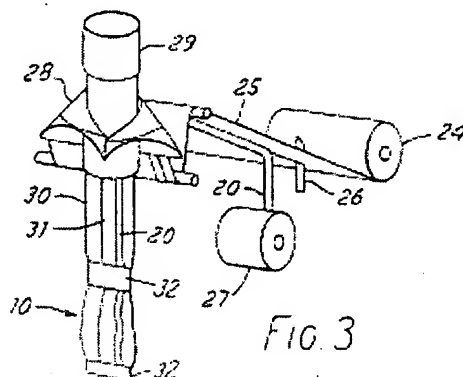
Regarding claim 3, Sanders ('399) teaches a package wherein a length of the second zone of the second face of the adhesive strip is at least equal to a length of the first zone of the adhesive strip (See *FIG-1*, wherein the length of #19 is the same length on both sides of #17.).

Regarding claims 4 and 11-12, Sanders ('399) teaches a package wherein the slot is rectilinear (*FIG-1*, rectilinear slot #17).

Regarding claim 5, Sanders ('399) teaches a package wherein the slot is arranged close to a rectilinear edge of the envelope (*FIG-1*, #17 at edge of #14).

Regarding claims 6 and 13-15, Sanders ('399) teaches a package wherein the envelope is divided into a plurality of distinct pockets, each pocket communicating with a respective portion of the slot (*FIGs 3 and 1*, plurality of pockets inside of plurality of

#10, with slot below #20. Furthermore, it is noted that multiplicity does not make the invention patentable over prior art with less than multiplicity.).



Regarding claim 9, Sanders ('399) teaches a method for the airtight packing of a product comprising the steps of:

obtaining a package (See FIGs 3 and 1, #10 and col. 4, ll. 47-60.);

inserting the product into the envelope, through the slot (See col. 5, ll. 11-15.);

removing the second detachable protective strip covering the second zone of the second parallel adhesive face of the adhesive strip and sealing the second zone on the second lip of the slot and onto the outer wall of the envelope (See col. 4, ll. 39-46 and 15-26 wherein #20 is removed for sealing the package);

removing the first detachable protective strip from the first parallel adhesive face of the self adhesive strip (See col.4, ll. 15-26 and FIGs 10-11 wherein the strip is removable for sealing the package.); and

folding the envelope back on itself along the slot, so that the stripped first face of the self-adhesive strip is folded back on itself to form the double seal over the slot and first lip and side elongated seal is formed on the second lip of the outer wall (See col. 7, ll. 4-22 and FIGs 10-11, #43.).

Regarding claim 10, Sanders ('399) teaches the method discussed above, however, fails to expressly disclose wherein a relative pressure of at least 0.95 bar and a temperature in the range of -40 °C to 55 °C exists inside the package after packing without losing product said contents outside the package.

However, it would have been obvious to one having ordinary skill in the art that said conditions are well known to exist in a typical atmosphere setting where said method is carried out.

Regarding claim 21, Sanders ('399) teaches sealable package, the package comprising a flexible, air-impervious envelope having an outer wall (See *FIGs 10-11 and col. 7, ll. 4-22*), however, Sanders ('399) fails to expressly disclose within the above embodiment wherein portions of said outer wall form a slot through said outer wall and also form first and second lips on said outer wall adjacent said slot, the slot having a length along the slot and the lips having a length extending beyond both ends of the slot; the adhesive strip comprising a substrate strip covered by opposite first and second, generally parallel adhesive faces and-having opposite first and second lateral edges extending parallel to the slot, wherein, before the package is closed, said first parallel adhesive face is completely covered with a first detachable protective strip, and said second parallel adhesive face comprises a first zone adjacent said first lateral edge of the strip that is fixed to the outer wall of the envelope along the entire length of said first lip of said slot, and said second zone being covered with a second detachable protective strip, and said second zone is substantially wider than the said first zone, forming an elongated zone transverse to the slot.

However, Sanders ('399) teaches in other embodiments wherein portions of said outer wall form a slot through said outer wall and also form first and second lips on said outer wall adjacent said slot, the slot having a length along the slot and the lips having a length extending beyond both ends of the slot (*See FIG-1, portions of wall forming slot with lips having a length on each side of #17.*); the adhesive strip comprising a substrate strip covered by opposite first and second, generally parallel adhesive faces and having opposite first and second lateral edges extending parallel to the slot (*See FIG-1, top and bottom of #19 with first/second ends.*), wherein, before the package is closed, said first parallel adhesive face is completely covered with a first detachable protective strip, and said second parallel adhesive face comprises a first zone adjacent said first lateral edge of the strip that is fixed to the outer wall of the envelope along the entire length of said first lip of said slot, and said second zone being covered with a second detachable protective strip, and said second zone is substantially wider than the said first zone, forming an elongated zone transverse to the slot (*See FIG-1, tape #20 with adhesive #19 and FIGs 10-11 and col. 7, ll. 4-42 wherein the outer wall of the envelope has three seals, the first being the tape, #20, the second seal being #46 and the third seal being the end portions that are folded and sealed to another per FIG-11. See FIG-1, bottom side of #19 fixed to #14 and wherein #19 bridges #17. See FIG-10 wherein tape #20, a second strip, overlaps itself and FIG-7 wherein tape #20a is covered with a second strip. Furthermore, see also FIG-13 wherein #50a is folded over #50b providing a double seal. Furthermore, see FIG-23 and col. 9, ll. 28-32, multiple tabs #23d. Furthermore, see FIG-11 wherein #20 overlaps itself as it is wrapped around the packaged product. Furthermore, it would have been obvious to a person having*

*ordinary skill in the art through routine optimization at the time Applicant's invention was made to vary the dimensions of various members).*

Therefore, it would have been obvious to one having ordinary skill in the art at the time Applicant's invention was made to combine the teachings from the various embodiments as discussed above in order to provide a package that encloses the contents to be contained.

Regarding claims 22-23, Sanders ('399) teaches the package discussed above, however, fails to expressly disclose wherein the outer wall comprises a weld bead, and wherein the weld bead is adjacent to the slot.

However, it would have been obvious to a person having ordinary skill in the art at the time Applicant's invention was made to use the commonly known weld beads to adjoin the members of the structure.

10. Claims 7, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders (US 4,709,399) in view of Kane, JR. et al. (US 2004/0173492).

Sanders ('399) teaches a package discussed above, however, fails to expressly disclose wherein the envelope comprises at least one sheet comprising an outer layer of oriented polyamide and an inner polyethylene layer laminated to the outer layer.

However, Kane ('492) teaches wherein the envelope comprises at least one sheet comprising an outer layer of oriented polyamide, laminated with an inner polyethylene layer (*paras. 58-59*) for the purpose of providing structure and barrier for the packaged goods (*paras. 57-59*).

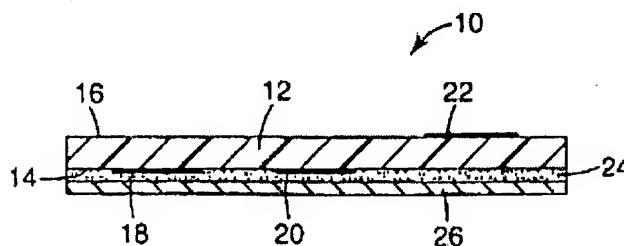
Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to provide an envelope comprising an oriented

polyamide and polyethylene as taught by Kane ('492) in Sanders ('399) in order to provide structure and barrier for packaged goods.

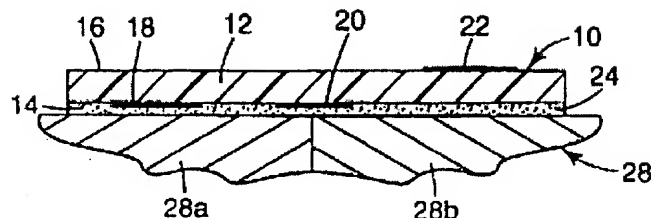
11. Claims 8 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders (US 4,709,399) in view of Cooley et al. (US 5,660,925).

Sanders ('399) teaches a package having an adhesive strip covered on two sides with an adhesive (*FIG-10, tape #20 and FIG-7, #20a*), however, fails to expressly disclose wherein the adhesive strip comprises at least one sheet of synthetic olefin polymer, covered on two sides with a rubber based adhesive.

However, Cooley ('925) teaches an adhesive strip comprising at least one sheet in of synthetic olefin polymer, covered on two sides with a rubber based adhesive (See *col. 5, l. 64 to col. 6, l. 9, col. 6, ll. 42-53, col. 9, ll. 62-63 and FIGs 1 and 2, wherein label #10 with olefin film #12 having rubber based adhesive #24 backing joins components #28a and #28b.*) for the purpose of providing an adhesive that is tacky at room temperature, can be adhered to a surface by application of a light pressure and is tamper-indicating (See *col. 5, l. 64 to col. 6, l. 5 and col. 6, ll. 42-45.*).



**Fig. 1**



**Fig. 2**

Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to provide the above adhesive strip as taught by Cooley ('925) in Sanders ('399) in order to provide an adhesive that is tacky at room temperature and can be adhered to a surface by application of a light pressure.

#### **ANSWERS TO APPLICANT'S ARGUMENTS**

**12.** In response to Applicant's arguments (*p. 8, para. 2 to p. 9, para. 1 of Applicant's Paper filed 27 November 2007*) that Applicant's claims are patentable over Sanders ('399) since Applicant's invention is single use and provides a permanent double seal, it is firstly noted that Applicant's invention is directed to a package without any contents within the package and is not sealed. A package that is sealed with or without contents is a different invention from what Applicant has claimed. Furthermore, whether or not a person uses a package one or more times is based on user preference and thus not a structural limitation of the claimed product. Furthermore, as discussed above said terms are relative terminology, thus, not definite.

**13.** In response to Applicant's arguments and amendments (*p. 9, para. 2 to p. 11, para. 2 of Applicant's Paper filed 27 November 2007*) regarding the anticipation rejection, it is noted that the claims are no longer rejected under 35 USC 102. The 35 USC 103 rejections are explained above.

14. In response to Applicant's arguments (*p. 11, paras. 3-4 of Applicant's Paper filed 27 November 2007*) that Kane ('492) does not teach the cited limitations because its structure is reclosable, it is noted as discussed above that whether or not a person uses a package one or more times is based on user preference and thus not a structural limitation of the claimed product. Additionally, as discussed above said terms are relative terminology, thus, not definite.

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

#### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent T. O'Hern whose telephone number is (571) 272-0496. The examiner can normally be reached on Monday, Tuesday and Thursday, 9:00-6:00.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-0996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Brent T O'Hern  
Examiner  
Art Unit 1794  
December 27, 2007

  
NASSER AHMAD  
PRIMARY EXAMINER 12/31/07